

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 830**  
**97TH GENERAL ASSEMBLY**

2029H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal section 559.115, RSMo, and to enact in lieu thereof one new section relating to criminal offenders participating in certain programs provided by the department of corrections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 559.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 559.115, to read as follows:

559.115. 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the offender's conviction has been filed in appellate court and the disposition of the appeal by such court.

2. Unless otherwise prohibited by subsection [5] **8** of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the offender on probation in a program created pursuant to section 217.777, or may place the offender on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program under this [section] **subsection** or order such placement under subsection 4 of section 559.036. Upon the recommendation or order of the court, the department of corrections shall assess each offender to determine the appropriate **one hundred twenty day** program in which to place the offender, [including] **which may include placement in the shock** incarceration **program** or institutional treatment **program**. When the court recommends and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 receives placement of an offender in a department of corrections one hundred twenty-day  
19 program, the offender shall be released on probation if the department of corrections determines  
20 that the offender has successfully completed the program except as follows. Upon successful  
21 completion of a [treatment] program **under this subsection**, the board of probation and parole  
22 shall advise the sentencing court of an offender's probationary release date thirty days prior to  
23 release. [The court shall release the offender unless such release constitutes an abuse of  
24 discretion. If the court determined that there is an abuse of discretion, the court may order the  
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety  
26 to one hundred twenty days of the offender's sentence. If the court does not respond when an  
27 offender successfully completes the program, the offender shall be released on probation. Upon  
28 successful completion of a shock incarceration program, the board of probation and parole shall  
29 advise the sentencing court of an offender's probationary release date thirty days prior to release.]  
30 The court shall follow the recommendation of the department unless the court determines that  
31 probation is not appropriate. If the court determines that probation is not appropriate, the court  
32 may order the execution of the offender's sentence only after conducting a hearing on the matter  
33 within ninety to one hundred twenty days [of the offender's sentence. If the department  
34 determines that an offender is not successful in a program, then after one hundred days of  
35 incarceration the circuit court shall receive from] **from the date the offender was delivered to**  
36 **the department of corrections. If the department determines the offender has not**  
37 **successfully completed a one hundred twenty day program under this subsection, the**  
38 **offender shall be removed from the program and the court shall be advised of the removal.**  
39 The department [of corrections a] **shall** report on the offender's participation in the program and  
40 [department] **may provide** recommendations for terms and conditions of an offender's probation.  
41 The court shall then [release the offender on probation or order the offender to remain in the  
42 department to serve the sentence imposed] **have the power to grant probation or order the**  
43 **execution of the offender's sentence.**

44       4. **If the court is advised that an offender is not eligible for placement in a one**  
45 **hundred twenty day program under subsection 3 of this section, the court shall consider**  
46 **other authorized dispositions.** If the department of corrections one hundred twenty-day  
47 program **under subsection 3 of this section** is full, the court may place the offender in a private  
48 program approved by the department of corrections or the court, the expenses of such program  
49 to be paid by the offender, or in an available program offered by another organization. If the  
50 offender is convicted of a class C or class D nonviolent felony, the court may order probation  
51 while awaiting appointment to treatment.

52       5. Except when the offender has been found to be a predatory sexual offender pursuant  
53 to section 558.018, the court shall request [that the offender be placed in the sexual offender

54 assessment unit of the department of corrections] **the department of corrections to conduct**  
55 **a sexual offender assessment** if the defendant has pleaded guilty to or has been found guilty of  
56 sexual abuse when classified as a class B felony. **Upon completion of the assessment, the**  
57 **department shall provide to the court a report on the offender and may provide**  
58 **recommendations for terms and conditions of an offender's probation. The assessment**  
59 **shall not be considered a one hundred twenty day program as provided under subsection**  
60 **3 of this section. The process for granting probation to an offender who has completed the**  
61 **assessment shall be as provided under subsections 2 and 6 of this section.**

62         6. Unless the offender is being granted probation pursuant to successful completion of  
63 a one hundred twenty-day program the circuit court shall notify the state in writing when the  
64 court intends to grant probation to the offender pursuant to the provisions of this section. The  
65 state may, in writing, request a hearing within ten days of receipt of the court's notification that  
66 the court intends to grant probation. Upon the state's request for a hearing, the court shall grant  
67 a hearing as soon as reasonably possible. If the state does not respond to the court's notice in  
68 writing within ten days, the court may proceed upon its own motion to grant probation.

69         7. An offender's first incarceration [for one hundred twenty days for participation in a  
70 department of corrections program ] **under this section** prior to release on probation shall not  
71 be considered a previous prison commitment for the purpose of determining a minimum prison  
72 term under the provisions of section 558.019.

73         8. Notwithstanding any other provision of law, probation may not be granted pursuant  
74 to this section to offenders who have been convicted of murder in the second degree pursuant  
75 to section 565.021; forcible rape pursuant to section 566.030; forcible sodomy pursuant to  
76 section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy  
77 in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to  
78 section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060  
79 when classified as a class A felony; an offender who has been found to be a predatory sexual  
80 offender pursuant to section 558.018; or any offense in which there exists a statutory prohibition  
81 against either probation or parole.

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